

Title 1 - GENERAL PROVISIONS

Chapter 1.01 - CODE ADOPTION

1.01.010 - Adoption.

Pursuant to the provisions of Utah Code Annotated, Section 17-53-208, the Millcreek City legislative body of Millcreek City ordains as follows and has adopted the "Millcreek City Code of Ordinances, 2017," as compiled, edited and published by the City.

1.01.020 - Title—Citation—Reference.

This code shall be known as the "Millcreek City Code of Ordinances, 2001" and it shall be sufficient to refer to the code as the "Millcreek City Code of Ordinances, 2017" in any prosecution for the violation of any provision therein or in any proceeding at law or equity. It shall be sufficient to designate any ordinance adding to, amending, correcting or repealing all or any portion thereof as an addition to, amendment to, correction or repeal of the "Millcreek City Code of Ordinances, 2017." Whenever a reference is made to this code as the "Millcreek City Code of Ordinances, 2017" or to any portion thereof, or to any ordinance of Millcreek City, the reference shall apply to all amendments, corrections and additions made before, as of or after the effective date of the ordinance codified in this chapter.

1.01.030 - Ordinance amendments—Change in form of Millcreek City government (reserved).

1.01.040 - Reference to specific ordinances.

The provisions of this code shall not in any manner affect matters of record which refer to, or are otherwise connected with the ordinances which are therein specifically designated by number or otherwise and which are included within this code but such references shall be construed to apply to the corresponding provisions contained in this code.

1.01.050 - Effective date of this code.

This code shall be effective on January, 2017.

Chapter 1.04 - GENERAL PROVISIONS

1.04.010 - Definitions and rules of construction.

- A. In the construction of the revised ordinances set out in this code, and all ordinances amendatory thereof, the following definitions shall be observed, unless such construction would be inconsistent with the manifest intent of the Millcreek City Council, or repugnant to the context of the ordinance.
1. "Absent" means for the purposes of the Millcreek City emergency plan, not physically present and not able to be communicated with via any means for twelve hours.
 2. "At-large" means and refers to those four members of the Millcreek City Council who are elected to the Council in a Millcreek City-wide election.
 3. "Board of health" means the Salt Lake County board of health.
 4. "Business" means any activity, operation, enterprise or calling referred to in this code for which a license is required.
 5. "Central services" include those services and activities provided within the office of the mayor or other offices to support all Millcreek City government activity including activities related to purchasing, contracting, real estate, claims, management information and data processing, facility management, fleet, accounting, auditing, legal, and general Millcreek Citywide administration.

6. "City" means the incorporated municipality of Millcreek.
7. "Millcreek City Council" or "Council" means the Millcreek City Council of Millcreek City, Utah.
8. "Council chair" or "chair" means that member of the Millcreek City Council who has been elected and is serving as the chairperson of the Council, if required by law.
9. "Council district" or "district" means one or more of the four Millcreek City Council districts.
10. "Council vice chair" or "vice chair" means that member of the Millcreek City Council, if required by law.
11. "Millcreek City" means Millcreek City.
12. "Millcreek City assessor" or "assessor" means the assessor of Salt Lake County, Utah.
13. "Attorney," "Millcreek City attorney" means the appointed or contractual attorney of Millcreek City, Utah.
14. "Millcreek City auditor" or "auditor" means the auditor of Millcreek City, Utah.
15. "Millcreek City clerk" or "clerk" means the clerk of Millcreek City, Utah.
16. "Millcreek City mayor" or "mayor" means the elected executive officer and mayor of Millcreek City, Utah.
17. "Millcreek City recorder" or "recorder" means the elected recorder of Millcreek City, Utah.
18. "Millcreek City sheriff" or "sheriff" means the elected sheriff of the Unified Police district.
19. "Millcreek City surveyor" or "surveyor" means the surveyor for Millcreek City, Utah, if required by law.
20. "Millcreek City treasurer" or "treasurer" means the treasurer of Millcreek City, Utah.
21. "Millcreek Citywide" policy, procedure or regulation means those lawful policies required to be approved by the Mayor and Council and implemented by the mayor or offices of the Millcreek City that address matters of administration and management that impact all departments of Millcreek City government including, but not limited to, matters related to contracting, purchasing, personnel administration, central services, budgeting, debt financing, relations between offices, and other matters authorized by law for Millcreek City legislative bodies.
22. "Disaster" means a situation causing or threatening to cause widespread damage, social disruption, or injury or loss of life or property resulting from attack, internal disturbance, natural phenomenon, or technological hazard and includes earthquakes, storms, tornadoes, flood, landslide, avalanche, fire, drought or epidemic.
23. "Fire department" means the Unified Fire District.
24. "Governing body" means the Millcreek City Mayor and Council for legislative matters and the mayor or his designee for executive matters.
25. "Health department" means the Salt Lake County health department.
26. "Highway" or "public highway" means any road, street, lane, court, place, viaduct, tunnel, culvert, bridge, alley or other public way situated within this Millcreek City, laid out or erected as such by the public, or dedicated, abandoned or open to the public, or made such in any action for the partition of real property, or such other public property so designated by any ordinance or statute, and includes the entire area within the right-of-way.
27. "Interim successors" means the replacement for an unavailable or absent elected official as a result of a disaster.
28. "Knowingly" imports only a knowledge that facts exist that bring the act or omission within the provisions of this code. It does not require any knowledge of the unlawfulness of such act or omission.

29. "Law" means and denotes applicable federal law, the Constitution and statutes of the state of Utah, the ordinances of Millcreek City and, when appropriate, any and all rules and regulations which may be promulgated thereunder.
30. "License official" means the director of the Millcreek City planning and development services division or his designee.
31. "Local emergency" means the proclamation invoking special powers and the emergency operation plan as a result of a disaster.
32. "Maliciously" or "malice" means a wish to vex, annoy or injure another person, or an intent to do a wrongful act, established either by proof or by presumption of law.
33. "Owner," applied to a building or land, means and includes any part owner, joint owner, tenant in common, joint tenant or less of the whole or of any part of the building or land.
34. "Person" includes bodies politic and any individual, partnership, association, corporation or group of individuals, however styled or designated.
35. "Personal property" means and includes money, goods, chattels, things in action and evidences of debt.
36. "Plan" or "optional plan" means the Millcreek City optional plan of Millcreek City government adopted for the Millcreek City at the election held on November 8, 2016 and taking effect on January 2, 2017.
37. "Property" means and includes real and personal property.
38. "Real property" means and includes lands, tenements and hereditaments.
39. "State" means the state of Utah.
40. "Tenant" or "occupant," applied to a building or land, mean and include any person who occupies the whole or any part of such building, either alone or with others.
41. "Wilfully," when applied to the intent with which an act is done or omitted, means and implies simply a purpose or willingness to commit the act or make the omission referred to. It does not require any intent to violate law or to injure another or to acquire any advantage.
42. "Written" means and includes printed, typewritten, mimeographed, multigraphed, photocopied, printed or otherwise processed by computer or other electronic means, or otherwise reproduced in permanent visible form.
43. "Year" means a calendar year unless specified otherwise.

B. Rules of Construction.

1. Mere language changes are not intended to reflect changes in the substance or meaning of the ordinances.
2. The singular number includes the plural.
3. Words used in the present tense include the past and future tenses and vice versa, unless manifestly inapplicable.
4. Words used in the masculine gender comprehend the feminine and neuter.
5. The term "may" is permissive; the terms "must" and "shall" are each mandatory.

1.04.020 - Interpretation of language.

All words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.

1.04.030 - Computation of time.

Except when otherwise provided, the time within which an act is required to be done shall be computed by excluding the first day and including the last day, if Saturday, Sunday or a holiday, in which case the last day shall be the next following business day. When the period of time is less than seven days, intermediate Saturdays, Sundays and legal holidays shall be excluded.

1.04.040 - Liability of employers and agents to penalty for violation of ordinances.

When the provisions of an ordinance prohibit the commission or omission of any act, the person doing the prohibited act or omitting the directed act and the employer, if the act or omission is done within the course and scope of employment, and all other persons aiding or abetting therein, shall be guilty of the offense described and subject to the penalty prescribed for the offense.

1.04.050 - Severability.

The Millcreek City Council of Millcreek City, Utah, hereby declares that the Council would have passed these revised ordinances and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional, void, or unlawful.

1.04.060 - Separation of powers.

- A. The Millcreek City Council shall exercise all legislative powers, have all legislative duties, and perform all legislative functions, as may be set out in state statute, the Millcreek City plan, Millcreek City ordinance, or in other sources of the law.
- B. Except as expressly provided otherwise in statute and except as contrary to the powers, duties, and functions of other Millcreek City officers, the Millcreek City mayor shall exercise all executive powers, have all executive duties, and perform all executive functions, as may be set out in state statute, the Millcreek City plan, Millcreek City ordinances, or in other sources of the law.
- C. Where the law is silent on the distribution or locus of a particular power, the allocation of powers shall be determined by function, according to an executive-legislative distinction. Where helpful, state and federal separation-of-power models shall be used to determine whether a particular power is executive or legislative.

Chapter 1.06 - MILLCREEK CITY HOLIDAYS AND OFFICE HOURS

1.06.010 - Office hours.

- A. All offices, departments, and agencies of the Millcreek City shall keep their offices open for the transaction of public business between the hours of eight a.m. to five p.m., Monday through Friday. In addition to regular office hours, for those offices and agencies in which the normal transaction of public business requires other hours of operation, services shall be provided on such days and such hours as the public business necessitates.
- B. All full-time Millcreek City employees shall work forty hours per week. Work schedules in offices, departments, and agencies shall be established pursuant to Millcreek City personnel policies.

1.06.020 - Holidays.

- A. The following days are legal holidays during which Millcreek City offices are closed:

The First day of January	New Year's Day
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The Third Monday of January	Martin Luther King Day
The Third Monday of February	Presidents' Day
The Last Monday in May	Memorial Day
The Fourth Day of July	Independence Day
The Twenty-fourth Day of July	Pioneer Day
The First Monday of September	Labor Day
The Eleventh Day of November	Veterans Day
The Fourth Thursday of November	Thanksgiving Day
The Fourth Friday of November	Day After Thanksgiving
The Twenty Fifth Day of December	Christmas Day

- B. In the event that a holiday falls on a Saturday, it shall be observed on the preceding Friday. In the event that the holiday falls on a Sunday, it shall be observed on the following Monday.
- C. Where the public business requires, some Millcreek City offices may be required to remain open for business on legal holidays.

1.06.030 - Legal delays.

Any act which is authorized or required to be performed on a Saturday, Sunday, or holiday, when the Millcreek City offices are closed, may be performed on the next business day. No liability or loss of rights of any kind may result from that delay.

Chapter 1.08 – PRISONERS (reserved)

Chapter 1.12 - GENERAL PENALTY

1.12.010 - Penalty for violation of code provisions.

When no other penalty is prescribed, any person convicted of violating any provision or provisions of an ordinance included in these revised ordinances, or in ordinances hereafter enacted, shall be deemed guilty of a misdemeanor, and punished as provided by state criminal code for Class B misdemeanors.

Chapter 1.16 - ADMINISTRATIVE HEARING

1.16.010 - Short title.

This chapter shall be known as the "Millcreek City Administrative Procedures Ordinance."

1.16.020 - Purpose.

The Millcreek City Council finds that the enforcement of the Millcreek City ordinances, policies, regulations, and applicable state statutes is an important public function vital to the protection of the public's health, safety, welfare, and quality of life. The Millcreek City Council further finds that providing a hearing to Millcreek City employees, citizens, and Millcreek City agencies relating to the enforcement of ordinances, policies, regulations, and applicable state statutes through an administrative procedures process conducted by independent, law-trained administrative judges comports with basic due process, simplifies and expedites hearings benefitting the Millcreek City and citizens, minimizes the impact on the judicial system, and provides flexibility in both the hearing process and in determining remedies and responsibilities.

1.16.030 - Scope.

The provisions of this chapter may be applied to any violations of the Millcreek City ordinances, policies, regulations, and applicable state statutes which occur within unincorporated Millcreek City or relate to such activities subject to Millcreek City operations and jurisdiction. No judicial review shall be available to any citizen or Millcreek City agency if the provisions of this chapter are not followed. Failure to timely request and participate in an administrative review under this chapter shall bar any action in the state or federal courts by an aggrieved citizen, Millcreek City employee, or Millcreek City agency.

1.16.040 - Other remedies and criminal prosecution.

The Millcreek City shall have sole discretion in deciding whether to pursue civil remedies or seek administrative enforcement for the violation of any of its ordinances, policies, regulations, and applicable state statutes. This chapter shall not limit the powers of the Millcreek City attorney in pursuing criminal charges for the violation of any Millcreek City ordinances or state statutes, in addition to any civil action the Millcreek City may take.

1.16.050 - Definitions applicable to title generally.

In this chapter the following words and phrases are defined as follows:

1. "Millcreek City Enforcement Action" or "Action" means any action by the Millcreek City seeking compliance with any ordinance, policy, regulation, applicable state statutes, and includes a notice of violation, administrative citation, departmental determination, board findings/order, stop work order, notice of non-compliance, clean-up order, abatement action, revocation/suspension of a license or permit, assessment of charges or costs, order relating to the occupancy or use of any structure, zoning violation, seizure of any animal or property, and any other action by a Millcreek City agency seeking the cessation of any business or operation or the assessment of any costs or non-criminal penalty. This term shall not include any criminal prosecution.
2. "Administrative Law Judge" means a person appointed by the mayor or his designee to preside over administrative hearings. An administrative law judge must be an attorney licensed to practice law in the State of Utah and must not be an employee of the Millcreek City.
3. "Administrative Hearing" means a hearing held pursuant to the procedures established by this chapter.
4. "Millcreek City" means the Millcreek City of Salt Lake County, Utah.
5. "Millcreek City Council" means the Millcreek City Council of Millcreek City.
6. "Director" means the mayor or his designee and includes the division administrator, assistant division administrator, or director of an agency.

7. "Enforcement Official" means any person authorized by the Millcreek City to enforce violations of the Millcreek City Code of Ordinances, policies, regulations, or applicable state codes including, but not limited to, zoning officers, police officers, building inspection officials, animal control officers, and health department officials.
8. "Mayor" means the Mayor of Millcreek City or the Mayor's designee.
9. "Person" means any natural person, firm, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, organization, or the manager, lessee, agent, officer, or employee of any of them, or any other entity that is recognized by law as the subject of rights or duties, or who represents or is the agent of such person.
10. "Property Owner" means the record owner of real property as shown on the records of the Salt Lake County Recorder.
11. "Responsible Person" or "Responsible Party" means the person(s) determined by the Millcreek City who is responsible for causing or maintaining a violation of the Millcreek City Code of Ordinances, policies, regulations, or applicable state codes. The term "responsible person" shall include, but is not limited to, a property owner, agent, tenant, lessee, occupant, business owner, business manager or employee, architect, builder, contractor, or other person who individually or together with another person is responsible for the violation of any provision of the Millcreek City Code of Ordinances, policies, regulations, or applicable state codes.

1.16.060 - Service of notice requirements.

1. Whenever a notice is required to be given under this chapter it shall be in the form of a notice approved by the director and the notice shall be served by one of the following methods:
 - A. Personal service;
 - B. Regular mail, postage prepaid, to the last known address of a responsible person;
 - C. Posting the notice conspicuously on or in front of the property that is the subject of the action.
 - D. Publication in a newspaper of general circulation if service has not been accomplished after reasonable efforts to comply Subsections A through C; or
 - E. As directed by the administrative judge.
2. Failure of a responsible person to actually receive notice shall not affect the validity of any action taken hereunder if notice has been served in the manner set forth above.
3. Service by regular mail in the manner set forth above shall be deemed served on the fourth day after the date of mailing.
4. The failure of a person, other than a responsible person, to be served notice in accordance with this section shall not affect the validity of any proceeding taken hereunder.

1.16.070 - Direction to Adopt Rules.

The Mayor shall establish rules for administrative hearings; appoint the hearing officer from the pool of approved administrative law judges, or, in the case of a conflict, appoint an outside hearing officer; provide for the notification of the involved parties; and establish guidelines and operating procedures for administrative hearings, including the type of pre-hearing discovery that may be allowed.

1.16.080 - Subpoenas.

The administrative law judge is empowered to issue subpoenas for the production of documents and things and to compel the appearance of witnesses in the pending action. It shall be unlawful for any person to willfully refuse or fail to obey a subpoena issued for an administrative hearing. A violation of this section shall be a class B misdemeanor.

1.16.090 - Request for administrative hearing.

1. A responsible person served with a "Millcreek City enforcement action" and any Millcreek City agency shall have the right to request an administrative hearing.
2. A party who has been adversely affected by an action by a Millcreek City agency may also request an administrative hearing. Adverse effect may arise from:
 - A. Any decision affecting the employment status, compensation, or treatment of an employee of the Millcreek City;
 - B. Denial, revocation, or termination of any license issued by the Millcreek City;
 - C. Any decision relating to the zoning or permitted use of real property located within the incorporated limits of the Millcreek City;
 - D. Any decision relating to the award or failure to award a bid or proposal but which action must be brought within the time limitations and grounds set forth in the Millcreek City ordinances and policies governing procurement;
 - E. Any notice of violation, animal seizure, assessment of costs, or other action taken by animal services; or
 - F. Such other violation, assessment, or action as designated by Millcreek City ordinance, policy, regulation, or state law.
3. The request for an administrative hearing shall be made in writing and delivered to the Millcreek City Mayor's office.
4. The written request for hearing must be received by the mayor within fifteen calendar days of the date the "Millcreek City enforcement action" is served upon the responsible party. Failure to request an administrative hearing within fifteen calendar days from the date of service shall constitute a waiver of the right to an administrative hearing and of the right to an appeal of the "Millcreek City enforcement action" to any state or federal court or agency.
5. Within fifteen days of the issuance of a "Millcreek City enforcement action," the Millcreek City may request an administrative hearing for the purpose of compelling a responsible person to comply with the action.
6. If a responsible person fails to request a hearing after being issued a "Millcreek City enforcement action" the corrective action detailed within the action shall be considered the final administrative order and the person shall be deemed to have waived any appeal of that order.

1.16.100 - Notification of administrative hearing.

1. As soon as practicable after receiving the written notice of the request for an administrative hearing, the mayor shall appoint an administrative law judge who shall schedule a date, time, and place for the administrative hearing.
2. Written notice of the date, time, and place of the administrative hearing shall be served on the responsible person as soon as practicable prior to its date.
3. The notice shall be served by any of the methods of service set forth in Section 1.16.060 of this chapter.

1.16.110 - Powers of administrative law judge.

1. An administrative law judge shall have authority to set the date, time, and place for holding an administrative hearing.
2. An administrative law judge may issue a scheduling order to guide the conduct of the case, to set the limits of any pre-hearing discovery, to provide for the identification of witnesses and their expected testimony, to list and exchange proposed exhibits, to approve stipulations regarding facts, applicable

law, foundation to exhibits, and to govern such other matters related to hearing of the matter as deemed appropriate.

3. The administrative law judge holding a hearing shall arrange for the recording of any hearing.

1.16.120 - Rules of discovery and evidence for administrative hearings.

1. The administrative law judge shall determine the scope of any pre-hearing discovery.
2. The formal rules of evidence and of civil procedure adopted by the courts shall not be applied in any administrative hearings; however, the administrative law judge shall determine the admissibility and weight to be accorded any evidence.
3. The administrative law judge shall issue a written ruling within forty-five days after the conclusion of the hearing.

1.16.130 - Appeal.

1. Any responsible person or Millcreek City agency adversely affected by a final administrative order issued pursuant to a hearing may file a petition for review in the Third Judicial District Court of the State of Utah in accordance with the Utah Rules of Civil Procedure.
2. A petition for review shall be barred unless it is filed within thirty days after the administrative order is final, unless a statute provides otherwise.
3. The record of the administrative hearing including minutes, findings, orders and, if available, a true and correct transcript of the proceeding shall be transmitted to the reviewing court by the party filing the appeal and the costs of producing the record, including any transcripts, shall be borne by the party filing the appeal. If the proceeding was tape recorded, a transcript of such tape recording shall be deemed a true and correct transcript for purposes of this subsection.
4. The filing of a petition does not stay execution of an administrative order. Before filing a petition, a responsible person may request the administrative law judge to stay an administrative order. Upon receipt of a request to stay, the administrative law judge may order the administrative order to be stayed pending district court review if the administrative law judge finds such stay to be in the best interest of the Millcreek City.